

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 1713 - HB 2394**

March 11, 2018

**SUMMARY OF BILL:** Requires a conservator of the peace who disobeys an unlawful order to be immune from any adverse civil or criminal liability, or adverse employment consequences, as a result of failing to obey the order. Removes immunity from suit for all governmental entities other than the state for death or injury to any person, or loss or damage to property, if certain provisions are met. Requires the knowing issuance of a directive by a local government official that is unlawful and unenforceable to be grounds for ouster of the official.

**ESTIMATED FISCAL IMPACT:**

**Other Fiscal Impact – For each instance of ouster, the mandatory increase in local expenditures is estimated to exceed \$500.\***

**To the extent a directive, order, command or statement impedes a conservator of the peace's duty, and a person suffers death, injury, or loss or damage of property, local government may incur other mandatory increases in expenditures associated with law suits.\***

Assumptions:

- Pursuant to Tenn. Code Ann. §§ 38-3-102 through 38-2-103, a sheriff, judicial and ministerial officers of justice in the state, mayor, alderman, marshal, police of cities and towns, the director, commissioner or similar head of any metropolitan or municipal police department are conservators of the peace.
- This legislation removes immunity from suit for all governmental entities other than the state for death or injury to any person, or loss or damage to property resulting from riots, unlawful assemblies, public demonstrations, mob violence, and civil disturbances, if the person who suffered the death, injury or loss or damage was not a party to the breach of peace, as evidenced by a criminal conviction, and the death, injury, or loss or damage to property was a proximate cause of a directive, order, command, or other statement that prevented the conservator of the peace from carrying out the conservator's primary duty.
- To the extent a directive, order, command or statement impedes a conservator of the peace's duty and a person suffers death, injury, or loss or damage of property, local governments may be sued. The increase in local expenditures associated with such suits cannot be reasonably quantified.

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- For each instance of ouster of a local official that knowingly issues an unlawful directive, order, command or other statement that is unlawful and unenforceable, taking into account replacing such ousted official along with all administrative impacts resulting from any such action, the net mandatory increase in local expenditures associated with the ouster of any local official is estimated to exceed \$500.

*\*Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/amj